IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO. 49 OF 2005

STATE, THROUGH PUBLIC PROSECUTOR ....Appellants

Versus

JOAQUIM BORGES ....Respondents

Mr. S.N. Sardessai, Public Prosecutor for the Applicant.
Mr. P.A. Kamat, Advocate for the Respondent.

Coram:- N. A. BRITTO, J.

Date:- 31st August, 2005

P.C.

Heard Shri Sardessai, the learned P.P. on behalf of the Complainant-State and Shri Kamat, the learned Advocate on behalf of the Respondent/Accused. The said Accused has been convicted and sentenced by the learned Judicial Magistrate, First Class, Canacona under Section 324 to pay a fine of Rs.5000/- in default to undergo S.I. for one month and u/s.504 I.P.C. to pay another sum of Rs.1000/- in default to undergo S.I. of 10 days. The Accused was acquitted u/s.326 I.P.C.

This appeal has been filed by the Complainant-State for enhancement of sentence awarded to the Accused which Shri Sardessai, the learned P.P. states, is inadequate. When asked as to what should have been the sentence to be imposed upon the said Accused, learned P.P. Sardessai has left the matter to the discretion of the Court. Shri Kamat, learned Advocate of the Accused, on the other hand, has submitted that against the said conviction the said Accused has filed an appeal before the Court of Sessions, Margao which is pending for disposal.

From the view to be taken, it is not necessary to await a decision in the appeal filed by the Accused before the Court of Sessions. Admittedly, the incident took place near the house of the Accused where the family of the injured are alleged to have gone to question the Accused regarding

pelting of stones on their house. The learned J.M.F.C. has taken into consideration the fact that the Accused was the only bread-winner of the family of the Accused and was a first offender . It also appears that the injury caused was simple in nature. Considering said the facts the learned J.M.F.C. has awarded the sentence against the Accused. The sentence does not appear to be grossly inadequate to call for interference of this Court.

Accordingly the appeal for enhancement is hereby dismissed with no order as to costs.

N. A. BRITTO, J.